

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 30, 1971

CIRCULAR NO. A-2

Revised

OMB Waiver Letter In ERU File

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Utilization, disposition, and acquisition of
Federal real property

1. Purpose. This Circular rescinds and replaces Circular No. A-2, Revised, dated April 5, 1967. It expands coverage to include federally owned properties in foreign countries; states the Government's general policy with respect to utilization, disposition, and acquisition of Federal real property; provides guidelines for identifying real property that is not needed, underutilized or not put to its optimum use; revises the annual report which is required of each agency by this Circular; and reflects the role of the Property Review Board, established by Executive Order 11508 of February 10, 1970.

2. Coverage. The provisions of this Circular apply to all Federal real property under the jurisdiction of the executive branch, except those categories of real property specifically excluded in paragraph 2b, below.

a. For purposes of this Circular, Federal real property includes:

(1) Land, buildings, structures, and facilities (including Government-owned buildings, structures, and facilities located on other than Government-owned land) acquired by purchase, condemnation, donation, construction, lease, or other methods; and

(2) Public domain land withdrawn or reserved and assigned to Federal agencies for use within the Federal Government for such purposes as military installations, airfields, and research facilities.

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b. For purposes of this Circular, Federal real property will exclude the following:

- (1) Unreserved public domain (except as indicated in paragraph 5c);
- (2) Real property which is to be sold or otherwise disposed of and which was acquired through (a) foreclosure, confiscation, or seizure in settlement of a claim of the Federal Government, or (b) conveyance to the Federal Government in connection with an indemnity or loan insurance or guarantee program;
- (3) Rights-of-way or easements granted to the Government;
- (4) Real property held in trust by the Federal Government;
- (5) Oregon and California revested lands and reconveyed Coos Bay Wagon Road Land Grants (43 U.S.C. 1181a);
- (6) Land administered by the National Park Service, other than administrative sites outside the established boundaries of a national park;
- (7) Land administered by the Forest Service, other than administrative sites outside the established boundaries of a national forest;
- (8) Land on Indian reservations within consolidation areas approved by the Secretary of the Interior;
- (9) Land within the National Wildlife Refuge System;
- (10) Real property located in the Panama Canal Zone; and
- (11) Bankhead-Jones lands being administered under a land conservation and utilization program in accordance with the Taylor Grazing Act of 1934 (48 Stat. 1269).

3. Utilization and disposition policy. Federal agencies will assure that real property holdings under their control are being fully utilized and are being put to optimum use. Agencies will conduct systematic, thorough reviews of their real property holdings, at least annually, to identify property which is not needed, underutilized or not being put to optimum use. When other needs for the property are identified or recognized, the agency will determine whether continuation of the then existing use or another Federal or other use would better serve the public interest, considering both the agency's needs and the property's location.

In conducting each review, agencies will be guided by paragraph 4 of this Circular, applicable General Services Administration regulations, and such criteria as may be established by the Property Review Board.

a. Utilization standards.

(1) Agencies will promptly identify and release real property holdings, or portions of such holdings, that are no longer essential to their activities and not required for the discharge of the agencies' responsibilities.

(2) Federal real property will be identified as being underutilized whenever a portion or all of the property, with or without improvement, is used only for irregular periods or intermittently for current program purposes of the holding agency, or when current program purposes can be satisfied with a portion of the property.

(3) Even though utilized for current program purposes of the holding agency, Federal real property will be identified as not being put to optimum use if (a) a portion or all of the property, with or without improvement, is of such nature or value, or is in such a location that it is suitable for a significantly higher and better purpose, or (b) the cost of using such property (operation, maintenance, and other incidental costs) is substantially higher than such costs for other suitable property that could be made available to the holding agency through

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transfer, purchase, or lease with total net savings to the Nation. Property prices or lease rates as well as costs of moving, occupancy, efficiency of operations, environmental effects, regional planning and employee morale factors should be considered in making such identification.

b. Procedures for improved utilization or disposition.

(1) When an agency identifies a portion or all of a real property holding as underutilized, or as not being put to optimum use, prompt steps will be taken to obtain full and optimum utilization of the property or to arrange for its release unless the holding agency's current program requirements cannot be met elsewhere at lesser Federal cost. Consideration should be given to possible relocation of agency programs to permit release of a portion or all of the property. If foreseeable future programs require retention of such property, efforts should be made to arrange for temporary use of unused portions, including lease to non-Federal parties.

(2) When property is identified as not being put to optimum use and replacement property must be acquired before such property can be released, the agency will initiate action under the acquisition procedures in paragraph 5. If appropriate financing must be obtained or if it will be necessary to secure the enactment of new authorizing legislation, appropriate arrangements should be made to complete any necessary supporting studies and to submit proposals for necessary appropriations or legislation. These proposals should be supported by estimates of the cost of replacing the real property and of the ultimate net savings to the Nation resulting from more efficient use of the property.

c. Property identified as not needed. Real property or a portion thereof identified as not needed shall be reported to the General Services Administration, to the Department of the Interior, or for other disposition as prescribed below.

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(1) Real property, except properties in foreign countries, within the term "property," as defined in Section 3(d) of the Federal Property and Administrative Services Act of 1949, as amended, which is not needed by the holding agency to discharge its responsibilities should be promptly reported as excess to the General Services Administration.

(2) Portions of withdrawn public domain, which are no longer required for effective conduct of the program for which withdrawn, will be reported initially to the Bureau of Land Management, Department of the Interior, for a determination by the Secretary of the Interior, with the concurrence of the Administrator of General Services, in accordance with Section 3(d) of the Federal Property and Administrative Services Act of 1949, as amended, whether such property is suitable for return to the public domain. Any such property found unsuitable for return to the public domain and thereafter determined to be excess will be reported to the General Services Administration for further use or disposal.

(3) All other real property covered by this Circular, as described in paragraph 2a, which is not needed will be screened for use for other programs of the agency and made available for such other purposes, if the tests of paragraph 3a are met, or disposed of in accordance with applicable law.

4. Guidelines for identifying not needed and underutilized real property and real property not being put to optimum use. The following general questions will be considered by each agency in reviewing its real property holdings:

a. Is the property being put to its highest and best use?

(1) Consider such aspects as surrounding neighborhood, zoning, and other environmental factors;

(2) Consider whether present use is compatible with State, regional, or local development plans and programs; and

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(3) Consider whether Federal use of the property would be justified if an equivalent commercial rental charge for its use was added to the program costs for the function it is serving.

- b. Are operating and maintenance costs excessive?
- c. Will contemplated program changes alter property requirements?
- d. Is all of the property absolutely essential for program requirements?
- e. Will local zoning provide sufficient protection for necessary buffer zones if a portion of the property is released?
- f. Are buffer zones kept to an absolute minimum?
- g. Is the present property inadequate to serve contemplated future programs?
- h. Can net savings to the Nation be realized through relocation considering property prices or rentals, costs of moving, occupancy, and increase in efficiency of operations?
- i. Have developments on adjoining non-federally owned land or public access or road rights-of-way granted across the Government-owned land rendered the property or any portion thereof unsuitable or unnecessary for program requirements?
- j. If Federal employees are housed in Government-owned residential property, is the local market willing to acquire Government-owned housing or can it provide the necessary housing and other related services, thereby enabling the Government-owned housing area to be released?
- k. Can the land be disposed of and program requirements satisfied through reserving rights and interests to the Government in the property if it is released?

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l. Is a portion of any property being retained primarily because the present boundaries are marked by the existence of fences, hedges, roads, and utility systems?

m. Is any land being retained merely because it is considered undesirable property due to topographical features or encumbrances for rights-of-way?

n. Is land being retained merely because it is land-locked?

o. Is there land, or space in Government-owned buildings, which can be made available for utilization by others within or outside Government on a temporary basis?

5. Acquisition policy.

a. Restriction. Real property and interests therein will be acquired, within applicable authorities, only as necessary for effective program operation. Agencies will not acquire, by any method, areas of real property larger than needed for approved programs.

b. Use of existing property. Prior to the acquisition of any real property, each agency will review its existing holdings as prescribed in paragraph 3 to determine whether the new requirement can be met through improved utilization. If the new requirement cannot be met by use of the agency's existing real property, efforts will be made to determine if other suitable existing Federal holdings are available, including the possibility of joint use agreement. Any utilization, however, must be for purposes that are consistent with the highest and best use of the property under consideration.

c. Notification of planned requirements. Prior to the acquisition of any real property, agencies will notify either the General Services Administration; the Bureau of Land Management, Department of the Interior; or the Office of Foreign Buildings, Department of State, as may be appropriate, of their current and future planned requirements. The General Services Administration, the Bureau of

Land Management, and the Office of Foreign Buildings, as appropriate, will advise agencies if excess, unreserved public domain, surplus real property or other real property is or may be available which might meet the need.

In specific cases where the agency's proposed acquisition of real property is dictated by such factors as exact geographical location, topography, engineering, or similar characteristics which limit the possible use of other available property, the notification will not be required. For example, in the case of a dam site or reservoir area, or the construction of a generating plant or a substation, specific lands are needed and, ordinarily, no purpose would be served by such notification.

d. Transfer of excess real property. As a general rule and where compatible with the general provisions of this Circular, excess real property may be acquired by transfer as provided in General Services Administration's Federal Property Management Regulations, Subchapter H, Subpart 47.2, or as otherwise provided by law.

Federal agencies holding excess real property pending possible transfer must refrain from making commitments to other agencies relative to such transfer. When inquiries from potential transferees are received by agencies holding excess property, they shall be referred to the General Services Administration. Agencies seeking property by transfer should make no plans for occupancy until a transfer request is approved by General Services Administration and, where appropriate, by the Office of Management and Budget. Agencies may request special review of proposed transfer actions where program considerations are compelling. The provisions of this paragraph do not apply to excess real property in foreign countries.

e. Requirements preceding real property acquisition. Federal agencies may acquire real property by purchase, condemnation, construction or lease only after the agency head or his designee determines that the requirement (1) cannot be satisfied by better use of existing property, and (2) suitable excess or surplus property, or unreserved public domain land is not available.

Agency determinations to acquire real property by purchase, condemnation, construction, or lease will be supported by complete documentation of the efforts the agency has made to satisfy its requirement as prescribed in this paragraph. The determination will include either a statement that the acquisition is limited to the real property necessary for effective program operation and is not larger than needed for approved programs, or an explanation of the circumstances which preclude such limited acquisition.

Budget requests for real property acquisition by purchase, condemnation, construction, or lease must satisfy the justification requirements contained in OMB Circular No. A-11.

- . With each request for apportionment of funds, or within 30 days thereafter, each agency will furnish to the Office of Management and Budget a list of individual properties, costing \$100,000 or more, which are covered by the apportionment. This list (in an original and one copy) will include a brief description and estimated cost of the properties to be acquired. When a request is made for reapportionment of funds, the list submitted will be limited to changes from previous lists. In addition, before any commitment or obligation is made with respect to each such proposed acquisition, the agency will reexamine the availability of alternative real property not requiring the expenditure of funds. A statement will be submitted to the Office of Management and Budget confirming that the reexamination was made and indicating the results. Similar reexaminations will be made for properties valued at less than \$100,000, but reports on these proposed acquisitions will be furnished to the Office of Management and Budget only upon request.

6. Permits and outleases. Permits authorizing an agency the use of property held in the custody of another agency will be issued only, when (a) a determination has been made by the holding agency that the property is not excess, and (b) the proposed use by the requesting agency conforms to the acquisition and use provisions of this circular. Outleases of such property to State and local governments, corporations, organizations, or private parties shall be

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affected only after a similar determination has been made that the property is not excess. Any proposed permit or outlease by a holding agency, except for property in foreign countries, shall be cleared first with the General Services Administration pursuant to Federal Property Management Regulations 101-47.802. An agency authorized to dispose of real property may make excess or surplus property available to another agency for short-term use by permit during the period it is being processed for further use or disposal, providing the requesting agency conforms to the provisions of this Circular.

7. Implementation. The head of each agency or his designee will:

a. Evaluate program needs for real property and develop criteria to achieve effective and economical use of such property in meeting program requirements, consistent with the Federal Property Management Regulations and such guidelines as may be prescribed by the Property Review Board;

b. Issue appropriate instructions to assure that criteria and guidelines for determining whether real property is needed, is fully utilized or is being put to optimum use are understood and uniformly applied, and that not needed or underutilized properties or those not being put to optimum use are identified and corrective action taken;

c. Issue appropriate instructions to assure the conduct of systematic and thorough reviews of all real property holdings annually in accordance with established criteria and guidelines; and

d. Give full cooperation to representatives of the General Services Administration responsible for collecting data and for conducting surveys of agency real property holdings under current authorities and take appropriate action with respect to reports issued by the General Services Administration.

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8. Annual report.

a. Preparation. Each agency will prepare a report as of the end of each fiscal year summarizing the action taken by the agency to implement the provisions of this Circular. The first report under this revised Circular will be for fiscal year 1972.

b. Coverage. The report will include the following:

(1) A narrative statement describing, in general, the actions taken during the fiscal year to comply with the provisions of this Circular. This should include a description of the analytical methods used to determine that properties not reported under (2) and (3) below are being put to optimum use.

(2) A list of federally owned real properties remaining in the agency's inventory and identified during the past fiscal year as being not needed, underutilized, or not being put to optimum use. For each property listed the agency should furnish an explanation of the action taken or planned in compliance with this Circular.

(3) A list of federally owned real properties remaining in the agency's inventory which were identified in years prior to the past fiscal year as not needed, underutilized, or not being put to optimum use. For each property listed the agency should include information concerning the status of disposition plans and the prospects for remedial action.

(4) A narrative summary describing the agency's acquisition activities. This summary will describe the volume of all real property acquired. In those instances where real property was acquired by means other than the expenditure of funds, estimates will be made of the funds that would have had to be expended if the agency had not taken this action. These latter properties should be identified separately.

(5) A description of any problems which the agency is encountering in the management of its real properties.

(6) Recommendations with respect to actions that might be taken by the General Services Administration, the Office of Foreign Buildings of the Department of State, the Property Review Board, or the Office of Management and Budget, as appropriate, to improve the management of Federal real property.

(7) A copy of any new or revised instructions or criteria developed and issued by the agency in implementation of this Circular.

c. Submission. The original and two copies of the report will be submitted by the head of each agency, except the Department of State, to the Director, Office of Management and Budget through the Administrator of General Services no later than October 1 of each year. Concurrently with the submission to the General Services Administration, two copies of the report will be submitted directly to the Office of Management and Budget. The original and two copies of the report of the Department of State will be submitted directly to the Director, Office of Management and Budget.

9. General Services Administration review of agency annual reports. The General Services Administration will review the report received from each agency and will transmit the report together with the General Services Administration comments and recommendations to the Office of Management and Budget with a copy to the Property Review Board no later than December 1 of each year. The General Services Administration review will include the following:

a. Examination of the list of properties identified by the agency as not being needed, underutilized, or not being put to optimum use. The General Services Administration will recommend any other properties which it believes should be added to those identified in the agency report.

b. Evaluation of relative priorities for relocation of agency programs on properties identified as not being put to optimum use. The General Services Administration

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will prepare a priority listing to realize more efficient use of property by other Federal agencies, State and local governments, or the private sector. The listing will establish (1) properties best suited for donation to State and local governments for park and recreation purposes, and (2) properties, not suitable for donation, that have potential for high dollar return to the Federal Government through sale to the private sector.

c. Evaluation of agency management of Federal real property. The General Services Administration will recommend measures which might be taken to improve the agency's management of its real property holdings.

GEORGE P. SHULTZ
Director